

CONSULTATION ON RAISING STANDARDS IN THE TAX ADVICE MARKET – STRENGTHENING THE REGULATORY FRAMEWORK AND IMPROVING REGISTRATION

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Comments from ACCA to HM Revenue & Customs

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About ACCA:

ACCA (the Association of Chartered Certified Accountants) is the global professional body for professional accountants.

We're a thriving global community of **252,500** members and **526,000** future members based in **180** countries and regions, who work across a wide range of sectors and industries. We uphold the highest professional and ethical values.

We offer everyone everywhere the opportunity to experience a rewarding career in accountancy, finance, and management. Our qualifications and learning opportunities develop strategic business leaders, forward-thinking professionals with the financial, business, and digital expertise essential for the creation of sustainable organisations and flourishing societies.

Since 1904, being a force for public good has been embedded in our purpose. We believe that accountancy is a cornerstone profession of society and is vital in helping economies, organisations, and individuals to grow and prosper. It does this by creating robust trusted financial and business management, combating corruption, ensuring organisations are managed ethically, driving sustainability, and providing rewarding career opportunities.

And through our cutting-edge research, we lead the profession by answering today's questions and preparing for the future. We're a not-for-profit organisation. Find out more at accaglobal.com

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ACCA response summary:

Given the limitations of the existing partial regulatory framework and the impact it can have on the standard of the market as there is no holistic approach, the government has concluded there is a need to strengthen the regulatory framework to meet the aim of raising standards in the tax advice market.

- ACCA believes that trust, transparency, and certainty lie at the heart of a healthy relationship between a tax authority, the taxpayers and the agents who interact with it. A lack of investment in HMRCs staff and digital capabilities¹ has, over time, damaged relationships between HMRC, compliant taxpayers, and the professional agents supporting them, with service standards at HMRC falling to an unacceptably low standard.
- Enhanced education for members of the general public is crucial to ensure people understand tax, regardless of whether they choose to file taxes independently or with support from an adviser.
- ACCA believes that a focus on improving HMRC's capacity to deliver taxpayer and professional agent service and effectiveness to give us the modern, efficient tax system we need, would not only support the delivery of these objectives, but ultimately improve public sector finances and boost productivity in the UK as a whole.
- With the professional body approach, HMRC could minimise the drain on its own time and resource. As a professional body ACCA has a range of existing requirements and standards which members must adhere to, those holding a practicing certificate must be fit and proper, will have completed a range of examinations, and adopted ACCA, International Federation of Accountants (IFAC) and Professional Conduct in Relation to Taxation (PCRT) requirements and standards.
- ACCA members are subject to robust levels of regulation and standards enforced by ACCA's rulebook² as well as licensing, monitoring, investigations, and disciplinary functions. All of which operate alongside the requirement for members in public practice to deliver high levels of quality assurance and protection for taxpayers. This holistic oversight of a professional body for all its members provides the insight to support effective regulation and protection.
- ACCA always favours a risk-based approach in monitoring related elements and draws on its knowledge of its members and sector to underpin this. We believe this would also be appropriate for government because it targets the areas government are concerned about. While there would be additional cost and time commitment requirements from professional bodies, ACCA believes that these are justifiable given the potential benefits.
- ACCA believes that all professions should be included in this requirement as it adds significant value and integrity within the system for all that deal with clients for tax services.
- We agree that a transition period gives the market sufficient time to adapt the introduction of mandatory professional body membership, however, we would welcome the introduction for specific areas such as R&D to be brought forward separately in a shorter period.
- One of the areas of future developments which we feel must be accounted for in implementing mandatory professional body membership is the way in which different taxes may change over time, and therefore, the way in which the provision of tax advice may evolve.

¹ <https://fundingthenation.org/>

² <https://www.accaglobal.com/gb/en/about-us/regulation/rulebook.html>

Question 1: Do you agree the limitations in the partial framework across the tax advice market contribute to issues observed?

ACCA believes that trust, transparency, and certainty lie at the heart of a healthy relationship between a tax authority, the taxpayers and the agents who interact with it. A lack of investment in HMRCs staff and digital capabilities³ has, over time, damaged relationships between HMRC, compliant taxpayers, and the professional agents supporting them, with service standards at HMRC falling to an unacceptably low standard. As set out in our report Foundations for a Sound Tax System, “Simplicity, certainty and stability... are the three cornerstones of a good tax system.”

Limitations in the partial framework across the tax advice market contribute to issues in the market. A significant proportion of the public are not aware of some of the restrictions across the areas concerned. Some areas of tax are significantly more complex than others, such as R&D tax credits, and therefore some individuals are likely to have less knowledge than a professionally qualified adviser.

HMRC continues to develop its Agent Standards but these are still not fully aligned with the Professional Body requirements including PCRT Standards, International Code of Ethics for Professional Accountants (IESBA) Code⁴ and ACCA’s on Global Policy on Taxation.⁵ HMRC continues to develop and rollout its Charter including standards of behaviour and values to which HM Revenue and Customs will aspire.⁶ Ensuring the HMRC Charter principles⁷ are upheld is critical to building trust. This includes the principle of recognising that taxpayers are entitled to representation. Enhanced education for members of the general public is crucial to ensure people understand tax, regardless of whether they choose to file taxes independently or with support from an adviser. However, complexity across more areas of tax are likely to make it more challenging for those taxpayers to adhere to prescribed standards.

Questions 2 - 3: Are there other components of a regulatory framework that would support the delivery of these objectives? Is there anything else that the government should consider?

ACCA believes that a focus on improving HMRC’s capacity to deliver taxpayer and professional agent service and effectiveness to give us the modern, efficient tax system we need would not only support the delivery of these objectives but ultimately improve public sector finances and boost productivity in the UK as a whole.

³ <https://fundingthenation.org/>

⁴ <https://www.ethicsboard.org/tax-planning-and-related-services>

⁵ [Global policy on taxation of companies: principles and practices | ACCA Global](#)

⁶ <https://www.legislation.gov.uk/ukpga/2009/10/contents>

⁷ <https://www.gov.uk/government/publications/hmrc-charter/the-hmrc-charter>

As detailed in ACCA's response to the HMRC call for evidence on the Tax Administration Framework Review⁸, inbuilt complexity in areas such as behavioural penalties present a range of challenges and a shift away from the current approach and towards a more modern approach such as the VAT points-based system would present a range of benefits, including greater efficiency and transparency.

Question 4: Do you think the government should mandate the approach to registration for tax practitioners who wish to interact with HMRC?

- **yes**
- no
- maybe
- don't know

ACCA believes that the proposed approach is a good idea in principle. Professional accountants acting in the public interest are ideally positioned to ensure the protection of taxes, government revenue, businesses, and society as a whole. However practical implementation of the model is of paramount importance.

Question 5: What are your views on the intention to apply the requirement to all tax practitioners who interact in any way with HMRC in a professional capacity?

ACCA is required to work within its public interest remit, to pursue policies that will promote wider good rather than solely representing the interests of our members. We also set and maintain the standards of our members in the provision of tax services.

ACCA is a member of PCRT (Professional Conduct in Relation to Taxation) and IFAC (International Federation of Accountants). In accordance with this our members are required to comply with the PCRT Fundamental Principles and Standards for Tax Planning. Failure to comply with PCRT standards is a serious matter and could put their membership of the professional body at risk. In addition, our members are bound by the principles set out in ACCA's Rulebook⁹ and Global Policy on Taxation¹⁰ which addresses particular ethical areas around business advisory services.

Ethical behaviour across the tax profession is critical. The work carried out by professional advisers and the bodies they belong to, needs to be trusted by society at large as well as by clients and other stakeholders. What a member does reflects not just on themselves but on the profession as a whole.

ACCA members are already subject to robust levels of regulation and standards enforced by ACCA's rulebook as well as licensing, monitoring, investigations and disciplinary functions.

⁸ <https://www.accaglobal.com/gb/en/technical-activities/technical-resources-search/2024/May/acca-response-HMRC-call-evidence-tax-administration-framework-review-2024.html>

⁹ <https://www.accaglobal.com/gb/en/about-us/regulation/rulebook.html>

¹⁰ <https://www.accaglobal.com/uk/en/technical-activities/global-forums/taxation.html>

All of which operate alongside the PII requirement for members in public practice to deliver high levels of quality assurance and protection for taxpayers.

Question 6: HMRC currently applies several checks at the point of registration including: whether the tax practitioner has outstanding debt and/or, returns with HMRC, and the status of their AML supervision. Are there additional checks that the government should consider for tax practitioners at the point of registration with HMRC?

With the professional body approach, HMRC could minimise the drain on its own time and resource. As a professional body ACCA has a range of existing requirements and standards which members must adhere to, those holding a practicing certificate must be fit and proper, will have completed a range of examinations, and adopted ACCA, IFAC and PCRT requirements and standards. We do not believe that HMRC are likely to need to conduct additional checks.

The checks completed are similar to that adopted in other jurisdictions which regulate in this space. For example, ACCA undertakes supervisory activities in South Africa and is overseen by the South African Revenue System. However, we would also question the need for inclusion of all outstanding debts to HMRC being included in the range of checks at the point of registration. If a taxpayer has made time to pay arrangements with HMRC, they should not necessarily be disqualified from offering tax advisory or compliance services on that ground alone. The sharing of information with professional bodies on the late return risk would be welcomed. PCRT help sheet E¹¹ provides ACCA members with guidance in relation to taxation.

ACCA undertakes a full suite of regulatory activities to support AML supervision. In addition, to providing a valid check as per this question, it also provides a useful framework for consideration and demonstrates the value of the individual's professional body can uniquely play in supervising the population. For example, ACCA has an annual plan of AML compliance reviews. This has been developed to allow flexibility to focus on where risk is the greatest and priority needs to be placed. The AML compliance review plan captures the key metrics so that information is available to Senior Management that provides an overview at any point in time of the progress of reviews and outcomes. ACCA has a broad range of AML compliance reviews that have been developed specifically to address risks and issues for our supervised population. This ensures that firms receive effective and relevant supervision.

The controls that are typically reviewed and tested during the process are:

- The firm's firm-wide risk assessment.
- Anti Money Laundering (AML) and Combatting the Financing of Terrorism (CTF) policies and procedures.
- Client risk assessment processes e.g. for consistency and documentation of rationale for client risk ratings.

¹¹ https://www.accaglobal.com/content/dam/ACCA_Global/Technical/PCRT/PCRT%20helpsheet%20E.pdf

- Client due diligence (CDD), enhanced due diligence (EDD) and ongoing monitoring procedures, including a review of a sample of client files e.g. for evidence of relevant and up-to-date Know Your Client (KYC) information and evidence of the client risk assessment.
- The firm's process for identifying and reporting suspicious activity, including a sample of records of internal and external Suspicious Activity Reports (SARs) for accuracy and completeness.
- AML training provided to the firm's employees (including evidence of their understanding of money laundering regulations and how to recognise red flag indicators and deal with suspicious activities/transactions). This includes reviewing AML training records to ensure materials are up to date and cover appropriate topics.
- Record-keeping systems, procedures and controls.

Question 7: Are there specific criteria or checks HMRC should apply if:

- **an individual, who has previously registered a company with HMRC as a tax practitioner, and attempts to register a new company?**
- **a tax practitioner operating as a sole trader becomes incorporated?**

As a professional body, we have in place conditions and checks which exist and enable individuals to hold a practicing certificate with us, which includes registration of the different entities they may wish to trade to. We look at these individuals as one which incorporates all of the entities fall under the standards we set as part of our rulebook.

ACCA members are subject to robust levels of regulation and standards enforced by ACCA's rulebook as well as licensing, monitoring, investigations, and disciplinary functions. All of which operate alongside the requirement for members in public practice to deliver high levels of quality assurance and protection for taxpayers.

The Rulebook is updated regularly, in line with regulatory developments and policy requirements. You can view the latest version of the Rulebook below¹² and refer to the Rulebook commentary for an overview of the most recent changes. Previous versions of the Rulebook and commentaries on Rulebook changes are stored in the Rulebook archive.

Question 8 - 10: Which approach do you think would best meet the objectives set out in chapter 4?

- **approach 1: mandatory membership of a recognised professional body**
- approach 2: joint HMRC-industry enforcement
- approach 3: regulation by a government body

¹² <https://www.accaglobal.com/gb/en/about-us/regulation/rulebook.html>

ACCA believes that approach 1: mandatory membership of a recognised professional body best meets the objectives set out in in this consultation, by enabling existing standards and frameworks to be adopted and implemented, at effectively zero cost to government. Approach 2 and approach 3 would come with significant cost to government, agents and taxpayers and far greater levels of complexity in development of new frameworks, implementation, and adoption as well as creating some level of unnecessary duplication in monitoring activities.

Question 11: Do you think membership with a professional body raises and maintains standards of tax practitioners?

- **yes**
- no
- maybe
- don't know

Membership with a professional body raises and maintains standards of tax practitioners. As detailed in response to question seven; ACCA members are subject to robust levels of regulation and standards enforced by ACCA's rulebook¹³ as well as licensing, monitoring, investigations, and disciplinary functions. All of which operate alongside the requirement for members in public practice to deliver high levels of quality assurance and protection for taxpayers.

Question 12: What is your view of the capacity and capability of professional bodies to undertake greater supervision of tax practitioners?

There are a range of considerations when exploring the capacity and capability of professional bodies to undertake greater supervision of tax practitioners. These include the degree and processes of monitoring that would need to be put in place and the skills attached to it. ACCA always favours a risk-based approach in monitoring related elements. We believe this would also be appropriate for government because it targets the areas government are concerned about. While there would be additional cost and time commitment requirements from professional bodies, ACCA believes that these are justifiable given the potential benefits and sits best when undertaken with their wider monitoring activities and knowledge of their members and the sectors in which they operate.

Question 13: What more could the professional bodies do to uphold and raise standards for their members?

As part of our existing standards, frameworks, and complaint procedures we have contact with HMRC compliance to consider common issues. Enhanced information sharing to support areas such as complaints procedures could be beneficial and is an example of an

¹³ <https://www.accaglobal.com/gb/en/about-us/regulation/rulebook.html>

area where professional bodies could potentially do more, however, this can only be achieved if enhanced information and support is provided by government.

Question 14: What additional costs may professional bodies face if strengthening their supervisory processes?

While professional bodies are likely to face additional costs in strengthening their supervisory processes, the costs to government would be far greater if government were to assume the role themselves. Leveraging the existing standards and frameworks of professional bodies is the most cost-effective approach.

The multi body approach allows the navigation of different challenges that may come about due to the range of members and the different heads of tax – ACCA also conducts robust regular monitoring as a professional body, as well as broader engagement with members to identify areas for support, having a good understanding of the sector.

There are significant challenges in the existing overburdened tax system within the UK. Many professional accountants highlight the cost and uncertainty in a system that is at a breaking point. If the system was further overburdened, there would be a range of potential consequences, including people losing faith in the system and positioning the UK as a less attractive place on invest for international investors.

Question 15: What is the best way to ensure current and new professional bodies maintain high standards?

As highlighted in response to question five, ACCA is a member of PCRT and IFAC.¹⁴ In accordance with this, our members are required to comply with the PCRT¹⁵ Fundamental Principles and Standards for Tax Planning. Failure to comply with PCRT standards is a serious matter and could put their membership of the professional body at risk. Full engagement with both of which is crucial.

ACCA also conducts robust regular monitoring as a professional body, as well as broader engagement with members to identify areas for support, having a good understanding of the sector. The AML targeted approach can be adapted to address specific issues which emerge in a very timely manner e.g. Russian sanctions. The use of wider thematic reviews in the AML space demonstrates how such an approach could be adopted in in the general practising population or for a subset e.g. tax practitioners.

Question 16: What role could the professional bodies play in supporting the clients of their members?

¹⁴ <https://www.ifac.org/who-we-are/our-purpose>

¹⁵ <https://www.accaglobal.com/uk/en/technical-activities/technical-resources-search/2019/february/professional-conduct-in-relation-to-taxation-pcrt.html>

Professional bodies provide information and guidance on what a good tax adviser looks like and ensure there are good disciplinary procedures in place where tax advisers have fallen short. We already have a requirement that upon accepting an appointment; the practitioner must send the client a letter of engagement.¹⁶ This forms the basis of a contractual relationship between the practitioner and the client as a mandated activity which adds additional transparency and governance for the client.

Question 17: Should government consider strengthening customer support options beyond the current complaints processes offered by professional bodies?

- yes
- **no**
- maybe
- don't know

We do not believe this would add value to the existing rights and safeguards afforded to individuals. There are existing third party oversight routes available.

Question 18 - 19: What role should HMRC/the government play under approach 1: mandatory membership of a recognised professional body? Do you agree that the requirement should only apply to those who interact with HMRC?

ACCA believes that the primary role for government as part of this approach is in mandating the membership of a recognised professional body. One additional activity for government could involve obtaining monitoring reports from the bodies as a central digital avenue, which could be used to promote the integrity of the UK tax system to attract investment to the UK on a global scale.

Expanding the requirement beyond those who interact with HMRC would involve setting some other criteria for application of the requirement, such as a definition of either tax advice/services, or of tax adviser as a legal person, whether natural or corporate. The difficulties of effectively implementing and monitoring such a definition are likely to outweigh the marginal benefits of doing so. Limiting the current requirement to only those who interact with HMRC will mean it is an incomplete solution; however, it will play an important part in tackling a wide range of issues and free up resource to deal with other areas using more appropriate and effective tools.

Question 20: Do you agree that the requirement should only apply to controlling or principals of firms?

Individuals holding professional body practicing certificate are the individuals responsible for the firm and therefore responsible for the firm's actions. Professional Conduct in Relation to

¹⁶ <https://www.accaglobal.com/uk/en/technical-activities/technical-resources-search/2022/January/engagement-letters.html>

Taxation¹⁷ (PCRT) applies across the board for firms holding an ACCA Practising Certificate (PC), and therefore the principal¹⁸ within the firm holds ultimate responsibility for the actions of the firm. Safeguards also exist within the system, which provide a mechanism to remove bad players from the market. Professional bodies also require firms to hold PII which adds an additional safeguard.

Question 21: Are there any other regulated professions that should be excluded from this requirement?

ACCA believes that all professions should be included in this requirement as it adds significant value and integrity within the system for all that deal with clients for tax services.

Question 22: How can the government ensure members of regulated professions have high standards in relation to their work providing tax advice or services?

As detailed in response to question seven, ACCA is required to work within its public interest remit, to pursue policy that will pursue wider good rather than solely representing the interests of our members. We also set and maintain the standards of their members in the provision of tax services.

ACCA members are already subject to robust levels of regulation and standards enforced by ACCA's rulebook as well as licensing, monitoring, investigations and disciplinary functions. All of which operate alongside the PII requirement for members in public practice to deliver high levels of quality assurance and protection for taxpayers.

Question 23: What are your views of the proposed exclusions?

Potentially in scope

The government welcomes views on whether the following groups should be in scope:

- **Charities interacting with HMRC on behalf of taxpayers**
- **Pro-bono services**
- **Promoters and enablers of tax avoidance**
- **Overseas/offshore practitioners**

ACCA believes there is significant value in the requirement for professional body membership for tax advisers to apply across the board, however we would support the exclusion of the requirement for voluntary tax services for people that can't afford tax advice, such as the Low Incomes Tax Reform Group.¹⁹

¹⁷ <https://www.accaglobal.com/uk/en/technical-activities/technical-resources-search/2019/february/professional-conduct-in-relation-to-taxation-pcrt.html>

¹⁸ https://www.accaglobal.com/content/dam/ACCA_Global/Members/Doc/Am I in Public Practice.pdf

¹⁹ <https://www.litrg.org.uk/>

Question 24: Do you think the following tax practitioners should be in scope of the requirement to become a member of a professional body member?

ACCA is proud to offer open access with an entry point for people from all backgrounds and across the full range of levels. Practitioners that are operating overseas/offshore are required to hold an ACCA Practising Certificate²⁰, and must adhere to the full range of associated standards and ACCA Rulebook.²¹

Question 25 - 26: What could be the consequences of introducing a legal definition of a provider of tax advice and services?

There is significant complexity in seeking to develop a legal definition of a provider of tax advice and services due to the range of advice which exists.

Setting clear limits on a definition of 'provider of tax advice and services' might provide clarity for the purposes of determining who should or should not be registered and regulated accordingly. However, it would also create a threshold which those intending to avoid regulation could seek to exploit. Although limiting the requirement for membership of a suitably regulated professional body to those interacting with HMRC directly would exclude from the requirement those 'scheme advisers' whose support of the types of artificial schemes which are prohibited by PCRT does not include filing returns or direct correspondence with HMRC, trying to create or expand a definition to include them would risk creating additional ambiguity or difficulties for other actors in the tax advice field.

Going beyond the specifics of registering for defined HMRC services or engaging in direct correspondence on the client's behalf to attempt to distinguish actors on the basis of their wider actions and motivations has been tried before, but is extremely complex, and the rise in use of software and various levels of 'advisory' input (ranging from simple logic checks within return forms to bespoke proactive advisory services relying on AI tools) will simply add to the difficulties of doing so in future.

Limiting direct access to HMRC based on fixed criteria would achieve a significant proportion of the goals of the current exercise. The marginal gains to be found from expanding the scope of the regulation would come at a significant cost both in terms of initial design and setup and in terms of ongoing difficulties for other parts of the tax advisory and support ecosystem. At a time of significant resource constraints on the part of all concerned, we should not let the perfect be the enemy of the good.

Question 27 - 28: How could unaffiliated tax practitioners be transitioned into professional body membership?

²⁰ <https://www.accaglobal.com/uk/en/member/sectors/smp/practising-certificates-and-licences/do-i-need-a-practising-certificate-.html>

²¹ <https://www.accaglobal.com/gb/en/about-us/regulation/rulebook.html>

As detailed in response to question 24, ACCA is proud to offer open access with an entry point for people from all backgrounds and across the full range of levels. Practitioners that are operating overseas/offshore are required to hold an ACCA Practising Certificate and must adhere to the full range of associated standards and ACCA rulebook.

While our existing routes to membership are open to all, there may be specific limited instances where an individual is not eligible to become an ACCA student.

Question 29: Do you agree a transition period of 3 years would give sufficient time for the market to adapt to the introduction of mandatory professional body members?

- **yes**
- no
- maybe
- don't know

We agree that a transition period gives the market sufficient time to adapt the introduction of mandatory professional body membership, however, we would welcome the introduction for specific areas such as R&D to be brought forward separately in a shorter period. There are a range of benefits to taking a phased approach, including protection of tax risk and proof of concept. ACCA would also encourage HMRC to consider other tax areas for a phased approach, recognising that providing a solution across all tax areas would significantly delay the initiative.

Question 30: What future developments would need to be accounted for in implementing mandatory professional body membership?

One of the areas of future developments which we feel must be accounted for in implementing mandatory professional body membership is the way in which different taxes may change over time, and therefore, the way in which the provision of tax advice may evolve. Future tax development would need to consider how it fits in with profession body requirements, and if changes to those services might be necessary.